

Fair Political Practices Commission

Memorandum

To: Chairman Johnson, Commissioners Hodson, Huguenin, Leidigh, & Remy

From: William J. Lenkeit, Senior Commission Counsel
Scott Hallabrin, General Counsel

Subject: Prenotice Discussion of Proposed Amendments to Regulation 18946.4

Date: March 17, 2008

Proposed Commission Action and Staff Recommendation: Approve notice of proposed amendments to Regulation 18946.4 regarding tickets to events for nonprofit and political fundraisers.

Reason for Proposal: The proposed regulation would eliminate the “no value rule” for tickets to fundraising events for 501(c)(3) organizations. Under this rule, tickets to such events as the Rose Bowl Game and Rose Parade, the Academy Awards, and the PGA Pro-Am are considered to have no value because the events are all fundraisers for 501(c)(3) organizations. Tickets to these events typically sell for prices ranging in the hundreds of dollars. But because, pursuant to this regulation, these items have no value, they escape even the minimum disclosure requirements imposed by the Act for reporting gifts (\$50), even though their value may exceed the statutory limit allowed for the receipt of gifts (\$390). Staff proposes that this loophole be eliminated by applying the valuation method provided in the regulation for other types of nonprofit organizations.

The proposed amendments would also expand the current “no value rule” for attendance at political fundraising events, put on by California recipient committees, to comparable events put on by committees regulated by federal law or the laws of another state. Staff believed the gifts limits of the Act should not interfere with legitimate political activities by state and local officials.

Background: 501(c)(3) Fundraiser Exception

The proposed amendment would eliminate the separate rule for 501(c)(3) organizations and treat all nonprofit fundraisers equally. Additionally, because entertainment, in some cases, may provide a primary benefit of attending a fundraiser, the proposed valuation method proposed herein would be expanded to include the fair market value of the entertainment, in addition to any food and beverage or other items received.

Regulation 18946.4 (formerly 18726.8) was originally adopted in 1987 along with several other regulations dealing with the definitions of “gift.” The regulations represented the codification of existing Commission advice and opinions on the subject of gifts, and the Commission intended that this information all be consolidated in one

location to “provide the public and public officials with clear guidelines on how to treat gifts for the purposes of disclosure and disqualification.” (Staff memorandum dated December 30, 1986.) The original language is substantially the same as it now exists, except it did not include the exception for 501(c)(3) organizations set forth in the current form of the regulation under subsection (b).

In 1993, regulation 18726.8 was renumbered to its current 18946.4. Additionally, in response to a letter from the Governor’s office dated August 17, 1991, requesting that the regulation be amended to provide that tickets to charitable events have no value, the Commission adopted subdivision (b), limiting the proposed “no value exception” to 501(c)(3) charitable organizations. This narrower exception was enacted after staff recommended against including all charitable organizations because it was “over broad” and would include labor organizations, chambers of commerce, credit unions, and a “long list of other organizations” that would be exempt from disclosure, many of whom “seek to influence public officials, and gift tickets that they provide to officials should not be exempt from disclosure.” (See Staff memorandum dated January 27, 1991 (sic).)

The Commission last examined this issue in 2004-2005. At that time, in response to a request from the Enforcement Division after investigating a case¹ involving distribution of Rose Bowl Game and Parade tickets to Pasadena city officials by the Pasadena Tournament of Roses Association, (the “Association”), a 501(c)(3) organization, staff proposed, along with other modifications to the gift provision, that this rule be eliminated. (See Staff Memorandum dated October 25, 2004.)

Staff Recommendation: In light of the Commission’s current reexamination of the gift regulations, staff recommends that the Commission reconsider eliminating the “no value rule” for 501(c)(3) fundraisers and expanding the valuation method for attendance at nonprofit fundraisers to include the value of the entertainment provided.

¹ The investigation found that the Association makes 2,100 grandstand seating tickets to the parade available to the city at no cost. The city then distributes the tickets to its employees. Of the 2,100 tickets distributed, the mayor would receive 150 to 230 tickets, city council members 120 tickets apiece, and the city manager would receive between 30 to 100 tickets. Tickets for grandstand seating to the Rose Parade sold, at that time, for between \$40-\$85 per ticket. Additionally, the Association made available to the city 1,200 Rose Bowl game tickets for purchase at face value and also offered to provide the mayor and each city council member *four tickets at no cost to them*. Rose Bowl tickets then sold at \$125 apiece. The Rose Bowl has been a consistent sell-out for over fifty years, and tickets to the Rose Bowl game are very difficult to obtain at face value. Most are provided to the represented schools and the two conferences. A limited number are reserved for residents of Pasadena. The remaining tickets are put on sale to the general public. Before the 2005 Rose Bowl game, one website was offering tickets that ranged in price from \$375 for the end zone to \$800 for the 30-50 yard line.